



APPEARANCES

For the Plaintiff: U.S. Attorney's Office  
CHARLES J. KOVATS, JR., ESQ.  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, Minnesota 55415

For Defendant Chernonjie: Gaskins, Bennett, Birrell,  
Schupp, LLP  
ANDREW S. BIRRELL, ESQ.  
Suite 2900  
333 South Seventh Street  
Minneapolis, Minnesota 55402

For Defendant Alagie Barrow: Joseph S. Friedberg, Chartered  
JOSEPH S. FRIEDBERG, ESQ.  
Suite 300  
701 Fourth Avenue South  
Minneapolis, Minnesota 55415

ROBERT D. RICHMAN, ESQ.  
P.O. Box 16643  
St. Louis Park, Minnesota 55416

For Defendant Banka Manneh: Lindquist & Vennum, PLLP  
MARK D. LARSEN, ESQ.  
Suite 4200  
80 South Eighth Street  
Minneapolis, Minnesota 5542

For Defendant Papa Faal: Office of the Federal Defender  
ANDREW H. MOHRING, ESQ.  
Suite 107  
300 South Fourth Street  
Minneapolis, Minnesota 55415

Court Reporter: LORI A. SIMPSON, RMR-CRR  
Suite 146  
316 North Robert Street  
St. Paul, Minnesota 55101

**P R O C E E D I N G S**

**IN OPEN COURT**

(Defendants present)

THE COURT: We have several matters on the Court's calendar this afternoon. I will just note those for the record. United States of America vs. Njie, which is Criminal File No. 15-35; United States of America vs. Barrow, B-a-r-r-o-w, which is 15-35-2; Papa Faal, 15-28; and Banka Manneh, 15-35-3.

So let's start with the appearances on each of those cases and we can start with whatever order we have. Let's start with the government.

MR. KOVATS: Good afternoon, Your Honor. Charles Kovats for the United States.

MR. BIRRELL: Good afternoon, Your Honor. Andy Birrell with Mr. Njie, who is present before the Court.

MR. RICHMAN: Robert Richman and Joseph Friedberg for Alagie Barrow, who is also present.

MR. LARSEN: Mark Larsen for Banka Manneh, Your Honor, who is before the Court and prepared to proceed.

MR. MOHRING: And Andrew Mohring here with Papa Faal this afternoon.

THE COURT: Well, I think as counsel -- I guess everyone knows we are here for imposition of sentence in each one of these cases. Each of these defendants has

1 previously entered pleas of guilty to various -- or at least  
2 two separate federal statutes and the Court has accepted  
3 those pleas. Now we are down to the final phases of this  
4 trial [sic], which would be the sentencing.

5 We will hear from the lawyers on behalf of each of  
6 the defendants. The defendants will also have a chance to  
7 be heard themselves if they wish to do so, but that's  
8 entirely voluntary on their part.

9 Before we start, let me just make one comment.  
10 I've received on behalf of the defendants I think about -- I  
11 tried to add it up this morning -- some 60 letters, all  
12 basically supporting the defendant. They are pretty evenly  
13 divided: 15, 19, 18, 14. Those letters stay in my file,  
14 they are not part of the public record, but I preserve them  
15 in case they're needed for some purpose.

16 But I want to say to those who wrote those  
17 letters, assuming that many of you are here today, that I  
18 appreciate getting them. It tells me something about the  
19 defendants that I don't find out in any other way than  
20 neighbors, friends, colleagues and the like. So I get a  
21 little better picture of who I'm dealing with.

22 And you don't get that -- I have had any number of  
23 cases where I am coming in here with individuals facing  
24 lengthy prison sentences and basically the courtroom is  
25 entirely empty, which is sort of a sad, sad situation.

1 But this tells me that these individual defendants  
2 have support. And to the extent that any of them are going  
3 to have a prison term, that support, I suspect, will be  
4 there when they complete whatever term is given. I hope  
5 that's the case. But in short, thank you all for coming.

6 We're going to start with, I guess, Njie. Is that  
7 the right one? I think that was number 1.

8 MR. BIRRELL: En-jie [phonetic], Your Honor.

9 THE COURT: I'm sorry.

10 MR. BIRRELL: Your Honor, my understanding from  
11 speaking with Mr. Kovats was that the proposal would be that  
12 he would speak as to all the defendants and then we would  
13 speak as --

14 THE COURT: That's fine. I have no problem with  
15 it. Anybody else have any objection to that?

16 MR. BIRRELL: Thank you, Your Honor.

17 THE COURT: Counsel.

18 MR. KOVATS: Thank you, Your Honor. First, I  
19 intend to be relatively brief. We've submitted a lot in  
20 written form and I had an opportunity to speak on Tuesday.

21 THE COURT: I've heard that before.

22 MR. KOVATS: Right.

23 THE COURT: Not from you necessarily.

24 MR. KOVATS: Right. And so the one thing I didn't  
25 speak about on Tuesday was the 3553(a) factors because I

1 feel that it's my belief that they apply not in the same way  
2 as to every defendant, but generally so. And so I thought  
3 it might help to start out with the government's view on  
4 3553(a). I may at the end of this speak a minute to respond  
5 to defense counsel, but I don't anticipate doing that at  
6 this point.

7 I want to start with the big picture, at least how  
8 the government sees this. And what I would submit to you is  
9 we have two main arguments from the defense, the defendants  
10 generally, and that is that these defendants are good  
11 Americans who acted with noble intentions.

12 The government doesn't dispute that these men have  
13 proven themselves to date as good Americans. In the room we  
14 have two veterans of our armed forces and we have a third,  
15 Mr. Njie, who attempted himself to join. By any measure  
16 before engaging in the crimes at issue, all were good and  
17 productive and proud American citizens. They worked hard  
18 and they cared for their families. They were well employed.  
19 They cared about the greater community in which they lived.  
20 That's not in dispute here, Your Honor.

21 The second argument, such as it is, is the defense  
22 argument that the regime in Gambia needed to go because it  
23 was abusive and undemocratic, violent to its own citizens at  
24 home and abroad.

25 The United States through the State Department has

1 issued reports decrying the human rights record of  
2 The Gambia, talking about the torture and arbitrary arrest  
3 and prolonged pretrial and incommunicado detention and  
4 forced disappearances of its own citizens, and government  
5 harassment of the regime's critics. This also isn't in  
6 dispute.

7 At the same time the government would like to  
8 caution the Court about weighing this too heavily. On  
9 Tuesday I spoke to the Court a bit about the government's  
10 interest in this regard and, in fact, the more erratic and  
11 abusive the foreign government at issue is, in some ways the  
12 more dangerous the consequences are for actions like this.

13 But anyway, big picture. We don't dispute these  
14 are good citizens. We don't dispute the flaws that the  
15 regime has. The government's interest here is that  
16 notwithstanding those things, what was done here is not  
17 okay. We don't get to go abroad with a private army to do  
18 private foreign policy and tip over foreign governments.  
19 That's not okay.

20 All right. So that's the big picture. From that  
21 I would like to zoom in a little bit and address a few  
22 points raised by counsel in papers and on Tuesday.

23 The chief one is the one raised by Defendant Njie,  
24 that he believed the United States government supported his  
25 plot to overthrow the regime based on conversations that he

1 was aware of between another member of the conspiracy and a  
2 lieutenant colonel in the service and his own direct  
3 conversations with a sergeant in the Army and suggested  
4 those conversations caused him to believe the government  
5 would support their plan.

6 And I would say this belief -- which may, in fact,  
7 be true, that he believed these things. What I'm suggesting  
8 is that belief is not reasonable under the circumstances and  
9 is undermined by the fact that his defendant -- or his  
10 co-conspirator, Sanneh, the one who had the conversation  
11 with the lieutenant colonel, when asked about why he was  
12 traveling to West Africa lied about it. He said he was  
13 going to visit his brother. That part might be true, but he  
14 concealed the true purpose of his travel. And if the  
15 government was supportive of this and if the defendant  
16 believed that to be the case, why would they be lying about  
17 it?

18 Secondly, the government has reviewed a lot of  
19 e-mail that the defendants have exchanged during the  
20 pendency of the conspiracy and I would submit to you that  
21 if, in fact, they had the blessing of the government -- I'm  
22 going to put before you Defense Exhibit 2 just to remind the  
23 Court.

24 THE COURT: Are you going to have a lot of  
25 exhibits? I can put the big screen up too.



1 MR. KOVATS: I have a few, Your Honor.

2 THE COURT: Let's put it up anyway.

3 MR. KOVATS: Okay. And I'm not going to go  
4 through this in detail.

5 What I would say is these defendants engaged in a  
6 determined and a longstanding and I would say admirable  
7 campaign to get components of the United States government  
8 to help them achieve their goals in The Gambia. And you  
9 heard on Tuesday how they met with congressmen, how they met  
10 with senators, how they met with members of the State  
11 Department, how they met with anybody they could get an  
12 audience with with the United States government to get  
13 traction.

14 And I would submit to you that if Mr. Njie or the  
15 other defendants actually believed the government was on  
16 board, there would have been a lot of discussion about that  
17 point because it would have represented a reversal of  
18 22 years of pounding on doors and getting nowhere. And the  
19 fact is there wasn't any such e-mails, there weren't any  
20 discussions because it wasn't true.

21 The fact that they used code names as well, the  
22 fact that they marked their documents as secret also  
23 suggests that this wasn't something that they actually  
24 believed the government endorsed.

25 I want to talk a little bit about 3553(a), Your

1 Honor, and the basis for departures and the like. First I  
2 want to talk a little bit about deterrence.

3 Counsel for at least one defendant had suggested  
4 that deterrence isn't effective and it ought not be  
5 considered by the Court when constructing a sentence here,  
6 and I would respectfully disagree. I'm not saying that  
7 deterrence is that factor that the Court should consider  
8 first, but I do not think it should be dismissed in whole.  
9 3553(a) enumerates that this is something that Congress has  
10 asked the court to consider and we shouldn't accept the  
11 defendant's invitation to ignore it.

12 But why is it appropriate? And I know that the  
13 Court has indicated that the letters written by members of  
14 the community would remain sealed. I would like to present  
15 one of them, however. It's written by an organization and  
16 not an individual, so I feel more comfortable presenting it  
17 here today. And I don't want to suggest that this letter is  
18 necessarily emblematic of everybody's, but it does cause the  
19 government concern.

20 And I will put it up here. This is part of  
21 Document 143 and it's a letter from the Gambia Consultative  
22 Council and I underlined, "Given the circumstances in which  
23 Gambians both at home and abroad find themselves in, the GCC  
24 has never wavered from its position of forcible removal, if  
25 necessary, of a military regime...."

1           And so obviously in the government's view this is  
2           cause for some concern. It's at least reason, Your Honor,  
3           not to say deterrence shouldn't inform the government's --  
4           or rather the Court's sentence here. We shouldn't throw it  
5           away. I believe that this letter evidences the fact that  
6           there are people in the community who might stand to learn  
7           from the Court's sentence.

8           The movie itself also discussed the fact that --  
9           discussed the nobility of the actions of these men and also  
10          suggested that streets would be named for them and other  
11          things like that that suggested that there was heroism  
12          involved. And it's those tone of things -- I'm not sure  
13          where the line is, but it's that tone that suggests that  
14          others might choose to follow in their footsteps to achieve  
15          what they've achieved.

16          I'd also talk -- I would like to talk a little bit  
17          about the seriousness of the offense, Your Honor, and I  
18          would suggest to you that the Court's sentence should seek  
19          to do that. I would also submit to the Court that a  
20          probationary sentence would fail to achieve that.

21          This is a photograph -- one photograph that was in  
22          all of the government's written submissions and it just  
23          speaks to the violence that was unleashed in the capitol of  
24          The Gambia on the night of December 30th of 2014. Three  
25          members of the conspiracy were killed. We can't forget that

1 when talking about what sentence is appropriate today.

2 This was a serious offense, Your Honor. People  
3 died. The people who died perhaps might have been willing  
4 to die for their cause, but as the fusillade of bullets were  
5 let loose that night, other people could have died, Your  
6 Honor.

7 And in the declaration of David Wharton, who is a  
8 senior official in the State Department, he talked about --  
9 I don't need to put it in front of you, Your Honor, but he  
10 talked about the danger to U.S. citizens as a result of this  
11 and he talked about the warnings that went out through the  
12 State Department through the embassy warning American  
13 citizens about the situation in Banjul as a result of these  
14 actions.

15 I'd also submit to you that the seriousness of the  
16 offense, the raising of the private army, the smuggling of  
17 weapons overseas, the private foreign policy, that a  
18 sentence of probation just doesn't address those concerns or  
19 those actions.

20 I'd turn to another photograph. This was a big  
21 deal, Your Honor. There was an arsenal of weapons smuggled  
22 into The Gambia to go do violence. And I think that some  
23 may argue that the ends justify the means here. I think  
24 there's been an argument made that peaceful means never  
25 achieved success, they didn't work. We tried to do it

1 peacefully. It didn't work. At the same time peaceful  
2 means are lawful means. Violent means didn't work either  
3 and they're unlawful.

4 And I'd end with where we started with on Tuesday,  
5 which is a quote from Martin Luther King, which I think was  
6 the lead on the movie that was played, a very good movie, a  
7 very compelling movie. "He who passively accepts evil is as  
8 much involved in it as he who helps perpetrate it. He who  
9 accepts evil without protesting against it is really  
10 cooperating with it."

11 And protesting may not be effective the first time  
12 or the second time or the third time. It may never be  
13 effective. But violence, Your Honor, wasn't the answer. It  
14 isn't the answer and it won't be an answer the next time,  
15 and I think the Court's sentence should reflect this  
16 analysis.

17 And with that, Your Honor, I'll submit.

18 THE COURT: Thank you.

19 Counsel, you may proceed.

20 MR. BIRRELL: Thank you. Your Honor, as to the  
21 motion for departure, I believe we have fully presented our  
22 thoughts to the Court both in our written papers and in our  
23 presentation and argument at the evidentiary hearing. So  
24 what I would propose to do today is to share with the Court  
25 my thoughts about sentencing and my arguments in support of

1 a motion for a variance in addition to the motion for a  
2 departure, if that is agreeable with you, Your Honor.

3 THE COURT: It's agreeable.

4 MR. BIRRELL: Thank you. Your Honor, my  
5 great-grandfather came from Germany and became a United  
6 States citizen and one of the most ardent Americans who ever  
7 lived, and it's hard for me to believe that if he had gone  
8 back to Germany in 1940 when we were at peace with Hitler's  
9 regime and tried to effect a change that he would have been  
10 hauled into a United States district court to answer for  
11 that. And I think that that is the historical context  
12 against which the Court should measure the conduct of these  
13 brave men who stand before you today.

14 The United States attorney has told the Court that  
15 these are good men, they're good Americans. And they are,  
16 every one of them. You've heard about them.

17 People ask me why I defend people in criminal  
18 cases sometimes and one of the reasons I do that is that  
19 every once in a while I get to represent somebody like  
20 Cherno Njie, who I've gotten to know over the last 18  
21 months.

22 And you've known me for a long time, Your Honor,  
23 so you know that whatever I tell you I believe. And I will  
24 tell you that I have never met a person who I have more  
25 admiration for, who I respect more, including people in my

1 own family, than Mr. Njie. He is an amazing man, Your  
2 Honor.

3 This is a man who grew up basically in a mud hut  
4 without indoor plumbing and came to the United States,  
5 educated himself, graduated from one of the most prestigious  
6 public institutions in the United States. With special  
7 honors he graduated.

8 He made himself a success both in business and in  
9 life; has contributed mightily to his community, as you can  
10 see in those letters; and who at the ripe old age of 57  
11 years, which as a 60-year-old guy I can appreciate now, who  
12 had more money than he would ever need, a more comfortable  
13 life than most people will ever have, a young wife and  
14 children, decided to put his life on the line.

15 He went into The Gambia, which in my view, Your  
16 Honor, is the absolute functional equivalent of traveling to  
17 Nazi, Germany, in 1940, and tried to do a good thing. He  
18 tried with these other brave men to try to liberate a  
19 country from one of the most despicable individuals in the  
20 world.

21 And I hope Mr. Jammeh is watching today and I hope  
22 he watches the proceedings in the United States of America  
23 and the United States District Court with the same level of  
24 interest that he watches people on TV being tortured in his  
25 torture cells because I hope he learns something.

1           The government's interest in this case, it seems  
2           to me, Your Honor, was to bring the case. The reason they  
3           needed to bring the case, Your Honor, was to vindicate the  
4           authority of the government, as I said in my papers, to  
5           conduct foreign policy. And they have made their point.  
6           They have the undoubted authority to conduct foreign policy.

7           There is no reason to incarcerate my client or any  
8           of these men. These are good men. They were willing to put  
9           their lives on the line for the rule of law. They have come  
10          to court and told the Court what it is they did. They've  
11          submitted to the Court's authority.

12          More than anyone, Your Honor, you can be sure that  
13          these people will do what the Court tells them to do on  
14          probation. I mean, these are people who so respect the rule  
15          of law that they were willing to die for it to give it to  
16          other people.

17          The deterrence argument is not a real argument.  
18          To suggest that because their brave comrades died that you  
19          should punish these men is to turn logic on its head, to  
20          make smaller a sacrifice that other people have made.

21          These are not bad people that need to be punished.  
22          What the community needs to see and what Jammeh needs to see  
23          is that justice can be tempered with mercy in the right  
24          circumstances; and these are the right circumstances, Your  
25          Honor.



1           Mr. Njie believed that the government of the  
2           United States was willing to accommodate this enterprise and  
3           he was wrong, but he had reason to believe it. It's  
4           undisputed, Your Honor, that the FBI was told in October of  
5           2014 that Mr. Sanneh was involved in plotting a coup to go  
6           back to Gambia. There is no dispute that that is a fact.  
7           And there's no dispute also that they went -- the FBI in  
8           Baltimore interviewed him December 16, 2014. Now, it is  
9           true that he didn't tell the line FBI guys what he was up  
10          to, but that certainly was not the level on which he was  
11          operating. And given that and the other involvement in the  
12          case, Your Honor, it seems to me a certainly reasonable,  
13          albeit wrong, conclusion that Mr. Njie had.

14                 But at the end of the day, Your Honor, this is a  
15          good man. These are all good men and the right thing to do,  
16          Your Honor, in my view is to put them on probation.

17                 I believe Mr. Njie has a statement he wishes to  
18          make to you.

19                 THE COURT: You may proceed.

20                 DEFENDANT NJIE: Thank you, Your Honor. Please  
21          allow me to take a few moments to thank my family, my wife,  
22          and my brother for being here. They have been very  
23          supportive during this very difficult period, as well as  
24          some other family members who couldn't make it here and are  
25          in Texas.

1 I would also like to thank the Gambian community  
2 in the Twin City area for their support and prayers. I  
3 would like to single out Cherno Bah and Yero Jallow  
4 specifically for their tireless efforts to help in  
5 supporting the defense team and for all their thoughts and  
6 prayers.

7 Finally, I would also like to thank the legal team  
8 for doing an excellent job during this process.

9 Your Honor, in our zeal to end the tyrannical  
10 regime of Yahya Jammeh and transition to an inclusive  
11 democratic government, we violated U.S. law. That was  
12 wrong. We should not have done it. I deeply regret my part  
13 in the offense. It will never happen again. We acted in  
14 the belief that our action was not unlawful and had the  
15 blessing of the government of the United States. This too  
16 was a mistake.

17 Our hearts go out to all those in The Gambia  
18 suffering under the dictatorial rule of Yahya Jammeh.  
19 Dr. King reminds us that the arc of the moral universe is  
20 long, but it does bend towards justice. My colleagues and I  
21 have resolved ourself to patiently wait for justice to come  
22 to The Gambia.

23 Thank you, Your Honor.

24 THE COURT: Thank you.

25 I think we will just go through each of them and

1       then we'll come back and --

2               MR. BIRRELL: Yes. Thank you.

3               THE COURT: Mr. Richman.

4               MR. RICHMAN: Thank you, Your Honor. This is on  
5       behalf of Alagie Barrow. Your Honor, it has been my great  
6       honor to represent Alagie Barrow and to get to know him over  
7       the course of the last 18 months.

8               When I first met him I immediately wanted to  
9       become involved in his case because rarely do I have an  
10      opportunity as defense counsel to stand before the court and  
11      say that the world would be a better place had he been  
12      successful in his criminal conduct, and I think that  
13      everyone who is sitting behind me observing would agree with  
14      that sentiment.

15              Even the government has made very clear that its  
16      concern was with the erratic behavior of Jammeh with respect  
17      to the failure of the coup, but it has never once offered  
18      the opinion that its interests are somehow allied with the  
19      Jammeh regime.

20              And while the government refers to Jammeh or the  
21      Gambian government as a rival of the United States, that was  
22      the term that the government used on Tuesday, I think it  
23      would be more candid to say that that regime is a menace on  
24      the international stage.

25              It's clear that what Mr. Barrow did, like the

1 other defendants, he did not out of selfish motives, but to  
2 help others. And what is so exemplary about Mr. Barrow is  
3 that that is typical of his outlook about life.

4 In 2001, after September 11th, he joined the Army  
5 National Guard because given what had happened, he wanted to  
6 serve his adopted country. And I would suggest, Your Honor,  
7 it was the same impetus, the same pang of conscience that he  
8 felt in 2001 when he joined the Army National Guard that  
9 catalyzed his conduct in this case.

10 He served in the National Guard from 2001 to 2014  
11 at various times during that time as his full-time position,  
12 but more, Your Honor, as the letters to the Court reflect,  
13 Mr. Barrow has always made service to others a top priority  
14 for himself.

15 He was a volunteer for new immigrants, an advocate  
16 for new immigrants as a volunteer. Most recently while he  
17 has been on pretrial release, he has been working with  
18 disabled adults, helping to care for young adults who are  
19 unable to care for themselves, which is work that he has  
20 found extremely rewarding.

21 There are many people who continue to depend on  
22 Mr. Barrow. He has a family, his wife. He has three  
23 children. He and his wife have a 7-year-old son, he has a  
24 13-year-old daughter from a previous relationship who lives  
25 with his wife and Mr. Barrow, and he has a 9-year-old child

1 to whom he pays child support.

2 But in addition, Your Honor, he has his family in  
3 The Gambia who continues to depend on him. His elderly  
4 mother remains in The Gambia. He has many relatives who  
5 rely on remittances from Mr. Barrow for their support.

6 Your Honor, everything that Mr. Barrow has done in  
7 his life up to this crime has been exemplary and I would  
8 suggest that that conduct, that record of a lifetime has not  
9 been tarnished by this crime.

10 This is a man who left The Gambia, came to the  
11 United States in 1996 at the age of 23. He applied for  
12 political asylum because he himself had been persecuted and  
13 tortured by the Jammeh regime and was granted political  
14 asylum, as a result of which he is now a U.S. citizen. He  
15 went to college here. He got his master's degree. He  
16 served honorably in the military, as I've indicated.

17 Mr. Barrow is not a zealot. He recognizes that it  
18 is now up to the Gambian people in that country to take  
19 control of their own fate and accomplish change. And while  
20 the government has made reference to statements from the  
21 Gambia Consultative Committee, I would suggest that those  
22 sentiments relate to the position of the people in  
23 The Gambia who are required to do what they can to implement  
24 regime change in that country.

25 And so while the government has urged this Court

1 to send a message to promote deterrence through a harsh  
2 sentence in this case, the message that I'm concerned about  
3 is the message that will be sent to the people of The Gambia  
4 if this Court chooses to impose prison sentences for these  
5 men.

6 The message to those people will be that the  
7 United States turns a blind eye to their suffering. Worse,  
8 they may draw the conclusion that the United States is  
9 opposed to any efforts to overthrow their repressive regime  
10 and that the United States actually supports the Jammeh  
11 administration.

12 It is not likely that the people of The Gambia  
13 will be able to make the subtle distinction of the law that  
14 makes the Neutrality Act applicable to American citizens in  
15 this country and not applicable to the people in The Gambia.

16 What they will see is that Gambian-Americans  
17 attempted to overthrow this repressive regime and were sent  
18 to prison as a result of it. They will see it as support  
19 for the Jammeh regime and could be crushing with respect to  
20 any blossoming effort to overthrow that regime.

21 But ultimately, Your Honor, I would suggest that  
22 this is not a case about sending messages. This is a case  
23 about, as every case is, doing justice. And I would join in  
24 the remarks by Mr. Birrell. I think this is a case that  
25 applying the 3553(a) factors, the sentence that is

1 necessary, but not greater -- is sufficient, but not greater  
2 than necessary, to achieve the purposes of sentencing is a  
3 probationary sentence.

4 That sentence, in light of all of the  
5 circumstances of this case, does not inadequately reflect  
6 the seriousness of the offense. It is the appropriate  
7 disposition and we ask the Court to impose it.

8 Thank you, Your Honor.

9 THE COURT: Thank you.

10 MR. RICHMAN: And I think that Mr. Barrow has some  
11 comments as well.

12 THE COURT: Mr. Barrow.

13 DEFENDANT BARROW: Yes, sir. Good afternoon, sir.  
14 Over the last 20 years three events have shaped my life  
15 significantly.

16 In early 2001 I had a job, I was expecting my  
17 first child, and I was in college. I felt at ease with  
18 where I was in life and I was thinking about joining the  
19 military, but I couldn't decide on what branch to join.  
20 Then September 11, 2001 happened. There's a saying that to  
21 whom much is given much is expected.

22 I called my recruiter at that time, Sergeant First  
23 Class Howse, now retired, and I told her I was ready to go  
24 to training. I wanted to join the Army. She asked me what  
25 job I was interested in and I told her I didn't care. She

1 asked me if I wanted to be a cook. I said whatever it took.  
2 All I wanted to do was to defend the people of America that  
3 gave me so much.

4 That following January I went to training and  
5 while I was in class in April of 2003 in college I received  
6 a call that we were to report to our unit for onward  
7 deployment to an unknown destination. In more than a decade  
8 of military service, I've never hesitated when called upon  
9 to defend the people of this nation. My decision to join  
10 the U.S. Army in 2001 and the lessons I learned imbued in me  
11 a moral responsibility to defend those that gave to me.

12 I had a pretty successful military career, but the  
13 conditions of my people back home, mothers being raped,  
14 fathers being disappeared, and my fellow countrymen dying in  
15 the waters of the Mediterranean wouldn't allow me to rest  
16 easy. I suffered anxiety and could not sleep at night. I  
17 could hear the wailings of a mother as she was being accused  
18 of being a witch by the government. I could see the agony  
19 of a father beaten into a pulp by the government, the tears  
20 of a cousin's sister who was forced to be raped by the  
21 authorities. I could not be myself. These were my people.  
22 These are my blood, my countrymen.

23 And despite my efforts at encouraging sanity back  
24 home through democratic means, I realized it was becoming an  
25 exercise of diminishing returns and so when my brother asked



1 me to help with a group that planned to restore sanity back  
2 to our homeland, I accepted to help out. My mission was to  
3 look over their plans and just help them out with their  
4 planning.

5 Meanwhile, conditions back home were getting worse  
6 and a friend of mine that I met in the military shared with  
7 me that -- he shared a George Bush quote with me. "The  
8 American dream means giving it your all, trying your  
9 hardest, accomplishing something, and then I will add to  
10 that giving something back. No definition of a successful  
11 life can do anything but include serving others." These  
12 were values that were imbued in me throughout my journey in  
13 the military.

14 How could I help with a plan that I couldn't risk  
15 my life for? When it became apparent that my involvement  
16 required more than a cursory glance of what my countrymen  
17 drew, I joined in.

18 The second incident that is shaping my life is  
19 what I am going through right now, a desire to provide for  
20 my people simple freedom.

21 Since being released from the custody of the  
22 United States I've had the privilege of working with  
23 mentally disabled young men. Prior to that, prior to any of  
24 this happening, I used to volunteer at the VA centers and  
25 work with senior citizens at veterans centers. I taught

1 classes -- civic classes to new immigrants to the United  
2 States because I believe in the values that the United  
3 States promoted.

4 The two gentlemen I work with can barely function  
5 on their own. They require complete help when they wake up.  
6 I have to help shave them, give them a bath, cook for them,  
7 take them out in the community because they can't function  
8 on their own.

9 But these two gentlemen have taught me so much as  
10 a man and as a human being, that all we have is one another.  
11 I love being around them as much as they love being around  
12 me and I wish to involve myself more in their world and help  
13 them be able to function on their own in a better capacity.  
14 I also have about 30 people whose livelihood depend on me.

15 I'm not a bad person, sir. I'm not a terrorist.  
16 I've never acted against the interests of the United States.  
17 I was a public affairs officer. I stood for the policies of  
18 the United States. I defended them in the military to other  
19 people outside of the United States.

20 And a child never hurts the mother that took him  
21 in when another child from his blood mother violates and  
22 banishes him from home. The United States is like a  
23 motherland for me that took me in when I was left out in the  
24 cold with nobody to help. There is nothing within me or in  
25 me that would go out and hurt a mother that took me and made

1 me the better person that I am today.

2 Robert McCracken said that, "We on this continent  
3 should never forget that men first crossed the Atlantic to  
4 find soil for their plows" -- "not to find soil for their  
5 plows, but to secure liberty for their souls." I crossed  
6 the Atlantic to secure liberty for the souls of my people.  
7 I had no idea whatsoever, nothing, that my actions were in  
8 contravention of United States laws.

9 While I am heavily influenced by the republican  
10 values of this great nation and the values that it was  
11 founded upon, I never thought of myself as an American going  
12 to Gambia to secure liberty. I saw myself as a Gambian  
13 because it is my family being killed in The Gambia, even  
14 today this very minute as I stand here before you, sir.

15 It was the great Ronald Reagan who said, "The  
16 world must see an America that is morally strong with a  
17 creed and a vision. This is what has led us to dare and  
18 achieve. For us values count."

19 I took full responsibility for my actions when I  
20 flew across two continents. After my peers here were  
21 arrested, I flew from Asia to Europe to here to turn myself  
22 in to the authorities and I stand before you here today  
23 assuming full responsibility for my actions and asking for  
24 mercy from the Court.

25 Thank you.

1 THE COURT: Thank you.

2 Counsel.

3 MR. LARSEN: Good afternoon, Your Honor.

4 Mr. Manneh now stands before the Court. I have only a few  
5 comments for the Court's consideration. I must say I concur  
6 with the comments of my peers previously having been made  
7 from the lectern to Your Honor this afternoon and I would  
8 adopt them as Mr. Manneh's positions as well.

9 There are, however, a few unique aspects of this  
10 case. I'm not going to rehash what you have heard  
11 previously, but there are a few unique aspects of this case  
12 as applicable to Mr. Manneh that I would like to call to  
13 Your Honor's attention.

14 Mr. Manneh does respectfully seek a term of  
15 probation here, Judge. We view that as a substantial  
16 punishment that would be sufficient to comply with the  
17 statutory goals and elements of sentencing that Congress has  
18 told us about in Section 3553. I did go back and take a  
19 quick look at the statute this morning before driving over  
20 here to St. Paul.

21 THE COURT: Always a good idea to know what it  
22 says.

23 MR. LARSEN: Always a good idea to take a look at  
24 what the law is, and there's obviously many factors and it's  
25 a long statute and I could probably waste a lot of time

1 going through all of the elements here.

2 But there's one element in particular that jumped  
3 off the page at me in this case in a way totally out of  
4 proportion to my prior experience in handling cases in this  
5 courtroom and it jumped off the page at me in a manner  
6 sufficient to have me realize that no matter what one does  
7 as a lawyer, and for goodness' sake you probably experienced  
8 this yourself before you took the bench, you've just never  
9 really seen it all.

10 There's always the case that teaches us something  
11 more, something more about our obligations to justice, our  
12 obligations to the court, and equally important our  
13 obligations to our clients.

14 Because what I saw when I looked at the statute  
15 today was that not only is the Court to consider, as the  
16 United States has pointed out here, the nature and  
17 circumstances of the offense, but in the very same  
18 subsection of the statute it tells us and the history and  
19 characteristics of the defendant, this man.

20 And those aspects of this case have taught me so  
21 much over the past 14, 15 months that looking back on it,  
22 Judge, I'm frankly overwhelmed at what I have learned from  
23 this case because this man, Your Honor, shows us a history  
24 and shows us characteristics that are just off the charts in  
25 terms of their positive impact on all that he comes into

1 contact with.

2 Now, Your Honor is going to hear from him in just  
3 a few moments. He isn't going to be giving you rehearsed  
4 comments, but I know that one of the things you'll be  
5 hearing is that his acceptance of responsibility in this  
6 case isn't just because he knows he's violated the law, but  
7 because he's violated the law against the very country that  
8 he has adopted as his own and who he respects to such a  
9 phenomenal extent.

10 He knows that he's privileged to be in this  
11 country. For goodness' sakes, Your Honor, he's privileged  
12 to be in this courtroom here today because it sure could  
13 have been a heck of a lot worse.

14 But what those letters tell us about him, that  
15 Your Honor previously has referred to, in terms of his  
16 personal characteristics shows us a life dedicated to the  
17 betterment of others, not just himself, but to others.

18 And there's one letter in particular that I wanted  
19 to call to your attention. I'm not going to put it up on  
20 the overhead and I'm not going to cite to the name of the  
21 letter-writer because I don't have his permission to use his  
22 name in this public proceeding here today.

23 But, Judge, it's the same individual who you saw  
24 on the video two days ago who talked about having been  
25 thrown into prison and having been given a life term because

1 he had 100 T-shirts printed that talked about democracy in  
2 his homeland of The Gambia.

3 That letter-writer's attestation of my client's  
4 character and what my client did for him and for his family  
5 to help with Reverend Jesse Jackson in securing his release  
6 goes to the core of what this man's true character really  
7 is.

8 And it's a true character surrounded with a  
9 constellation of life's experiences: raising money for  
10 others, securing health services for others, traveling  
11 overseas and transporting people back to this country so  
12 they can get medical services that they need, transporting  
13 them back across the Atlantic to Gambia so that they can die  
14 surrounded by their family members, providing educational  
15 tools to students, encouraging students to make of their  
16 lives what he has made of his own, an undergraduate degree,  
17 a graduate degree, a professional man who now stands before  
18 the Court having raised himself up by his own bootstraps out  
19 of a mud hut in The Gambia.

20 So if we do take a look at what Section 3553(e)  
21 tells us are appropriate considerations, those  
22 characteristics of this man strongly support the imposition  
23 of a sentence to include a term of probation in this  
24 particular case.

25 Your Honor, I wrote to your probation officer,

1 Ms. Andrade-Vera, about this case and in the last paragraph  
2 of the letter I wrote to her that it has been my privilege  
3 and my honor to have represented this individual in this  
4 judicial proceeding, something I never have thought of  
5 having written before, and it is because of his character  
6 and all that he has taught me about what true character  
7 really is and what it really means.

8 Those factors support probation, Judge. Anything  
9 else, I believe, would be greater than necessary to fulfill  
10 the statutory elements of sentencing.

11 DEFENDANT MANNEH: Good afternoon, Your Honor.

12 THE COURT: Good afternoon.

13 DEFENDANT MANNEH: I guess first of all I would  
14 like to thank the Gambian community. They have been very  
15 supportive throughout this process. I really appreciate  
16 everything that they have done for us and I just wanted to  
17 say that before I say anything.

18 And also to thank my attorneys and even the  
19 prosecutors and even the FBI agents who were -- everybody  
20 treated me the best they could, really. I mean, this has  
21 been a wonderful experience for me as far as getting to see  
22 firsthand what this country after all is all about because  
23 I've seen with my own eyes how I have been treated with the  
24 most -- with dignity and respect, I would say more than I  
25 deserved, quite frankly, and to have gone through your court



1 giving all my rights, the rights that have been denied to  
2 Gambians back home. So I really wanted to thank the  
3 prosecutors, my lawyers, and the FBI agents and this  
4 honorable court for how I have been treated all along.

5 I'm profoundly sorry, Your Honor. I'm ashamed of  
6 what I have done because -- for the simple fact that this  
7 country gave me a lot. I am the only one who went to school  
8 in my whole entire family. My mother -- my brother had to  
9 quit school because my mom could not afford 25 cents a month  
10 tuition.

11 So coming here was never in my dreams. I never  
12 thought I would come to America. I never even thought about  
13 it. So I was shocked when I was brought here in 1995 by an  
14 American and embraced by his family.

15 I have never looked back. It's been a wonderful  
16 experience. I went to college here. I worked three jobs to  
17 put myself through college and now I proudly have my  
18 master's degree.

19 But more importantly, I think, that I never  
20 thought with all the things that I have been endowed with  
21 throughout these 20 odd years, I never thought I could get  
22 any one of those things, I never had hope.

23 Now, for a country that has given me so much  
24 opportunity and given me so much, to have found myself  
25 really standing on the other side of the law, accused of

1 having offended the country, that's why from the beginning I  
2 never even wanted this thing to go to trial.

3 I decided to plead guilty right away because I  
4 realized along the way somehow -- and believe it or not, it  
5 came right after the arrest of Papa Faal that I realized,  
6 wow, oops, I guess we committed a crime and then from that  
7 day on I regret everything I have ever done.

8 Because for me, I never wanted to offend America.  
9 I love this country dearly, Your Honor. I care deeply about  
10 this country because I am who I am today because of this  
11 country.

12 But it's that same reason also, Your Honor, why I  
13 sacrifice for the Gambians on the ground. I have traveled  
14 everywhere in the world, you name it, Europe, Africa,  
15 America, everywhere, knocking on every door I could find  
16 trying to find answers, trying to get help for those people  
17 back home.

18 The video that you saw here is a toned-down  
19 version of what was going on in that country because for the  
20 most part there are aspects of that country where when you  
21 talk to people about it, it is propaganda because those  
22 crimes are too grave to bear or the -- I mean, nobody could  
23 even imagine in this 21st century that you will have a  
24 country in the world -- I'm sorry, my mouth is getting  
25 dry -- that you have a country in the world where such

1 crimes are committed.

2 And that's why I've been going all around the  
3 place, Your Honor, making sure that the Christian minority  
4 in the country are fully protected when it was declared the  
5 country is an Islamic state and sharia law is going to be  
6 introduced, I've been fighting for that. When gays have  
7 been arrested, I've been all around the place knocking on  
8 doors to make sure that we rescue them. When people get  
9 arrested, I'm one of the first people that gets contacted.  
10 When somebody gets disappeared, I'm one of the first people  
11 who gets contacted. When somebody is tortured, I am one of  
12 the first people that gets contacted.

13 And so on a daily basis I get a dose of the  
14 reality of that country. It is not looking good. It's  
15 really, really bad. When they're desperate I come to help  
16 that situation and I save those lives.

17 I realize now I have committed a crime against a  
18 country I love so much and for that and for whatever it's  
19 worth, Your Honor, I want to say I am deeply sorry to this  
20 country and to anybody who calls this country home.

21 I think for me -- I'm sorry.

22 MR. LARSEN: Here's some water.

23 DEFENDANT MANNEH: For me, the gravest lesson I've  
24 learned from this is that next time before you do anything  
25 just contact a lawyer first and have a word with him

1 because, frankly, breaking the law is not in my DNA. I have  
2 been living in this country for more than 20 years and never  
3 been arrested for any crimes. I've always been a  
4 law-abiding citizen and I want to continue being one.

5 I don't intend to ever, ever do anything that  
6 would ever again offend this country in any form, shape, or  
7 fashion because that's never been my intention. It never  
8 has been and never will be.

9 So I am deeply sorry for what has happened and to  
10 have wasted your time on our case during the course of this  
11 trial. I'm sorry.

12 THE COURT: Thank you.

13 Mr. Mohring.

14 MR. MOHRING: Thank you, Your Honor. Judge, the  
15 decency and the humanity and the courage of these men have  
16 been spoken about actually in some ways on both sides of the  
17 prosecution and the defense, but these characteristics are a  
18 call to each of us to match that and to show our own.

19 I appreciate the Court's comments about the  
20 reference letters. I put together and gave to the Court  
21 just a fraction of the communications that I received. And  
22 as the Court noted, they are powerful, enviable even.

23 Papa Faal has revealed to the Court in the  
24 presentence investigation report, himself and in the letters  
25 written on his behalf by the people who know him best, as a

1 compelling individual, an educated man. He has a bachelor's  
2 degree. He has two master's degrees. He is a doctoral  
3 student. He speaks four languages.

4 He is, as the Court has seen, deeply committed to  
5 The Gambia and to the Gambian people, but he is also deeply  
6 committed to the United States of America. He is a  
7 decorated combat veteran and he bears the emotional scars  
8 and the physical scars from that, from that service. And I  
9 think most important to him and vividly depicted in the  
10 letters that people wrote, he is deeply committed to his  
11 family, nuclear and extended.

12 It's a wonderful part of this line of work that we  
13 get to come into contact with people who have walked under  
14 very different circumstances and very different paths than  
15 our own.

16 But the question this afternoon is how to judge  
17 these men, how to judge these offenses and how to sentence  
18 them. And that challenge, I think, is present to a greater  
19 degree in this case than in almost any that I've ever come  
20 into contact with.

21 As co-counsel have mentioned, there is no shortage  
22 of analogies. Mr. Birrell brought up Nazi, Germany, and the  
23 question of what would we do for someone who committed this  
24 offense under those circumstances, but it's an unfortunate  
25 part of the human reality of this era that there are no

1 shortage of other examples.

2 My mother was born and raised in Greece. She  
3 survived the Second World War and the Greek civil war that  
4 followed it. She survived the German and Italian occupation  
5 of her village and her home.

6 And she came to the United States and she watched  
7 in horror in 1967 when her nation, her homeland, the  
8 birthplace of democracy, was taken over in a military coup.  
9 The military junta ruled Greece from 1967 to 1974 for seven  
10 brutal years, conducting the types of tactics and human  
11 rights abuses and violent rule that the Court has heard  
12 about.

13 And I watched my mother, as a kid growing into an  
14 adolescent over those seven years, working with her family  
15 members and other members of the Greek diaspora and I  
16 watched their confusion and their struggle with how -- what  
17 to do and how to respond responsibly under those  
18 circumstances and I watched them try to engage the great  
19 powers, engage the United States and the United Kingdom and  
20 the United Nations, in support of regime change in Greece,  
21 but I also watched them struggle with the same confusion  
22 that you saw -- you see in these men and that you saw in the  
23 video, a concern about what impact their actions might have  
24 on their family members in Greece.

25 So I look at these men and I look at my mother and

1 I wonder, but I think it's a question that is one that is  
2 placed to all of us in this courtroom and I think most  
3 pointedly to you, what would we do under those  
4 circumstances, how would we act, how would we want to be  
5 judged were we in the footsteps, in the shoes of these men.  
6 Sentencing in this case calls on us to answer that question.

7 In the words of one of the people in the video, he  
8 said, this is a terrible set of circumstances, one that  
9 compels people to act, but if it's your mom, if it's your  
10 family being locked up, I guess in terms of the statute that  
11 would fall under the nature and circumstances of the  
12 offense.

13 In deciding how to respond to that from the  
14 standpoint of sentencing, as discussed at length on Tuesday  
15 and I won't go into it again, Your Honor, I submit that the  
16 guidelines are effectively irrelevant. The guidelines  
17 really do not do any kind of meaningful justice to the human  
18 circumstances and the facts -- the uncontested facts of this  
19 case.

20 The guidelines provide us no meaningful import or  
21 guidance and so we are left with a statute, but we're also  
22 left with the fundamental basic three objectives, potential  
23 objectives of criminal sentencing: retribution,  
24 rehabilitation, and deterrence.

25 Now, the prosecution has talked about how we just

1 can't have this, this is not okay, we cannot have people  
2 conducting personal foreign policy. And they have proven  
3 their point. Each of these men stands convicted of a  
4 felony. They were prosecuted to the full extent of the law.  
5 They were convicted of felonies and they will carry that  
6 mark for the rest of their days.

7 So this is not a question of guilt or innocence.  
8 We don't speak to that. This is a question of punishment  
9 and mitigation of punishment. The government says it's not  
10 okay and they've made that very clear. That is clear as we  
11 stand here this afternoon, regardless of what the Court does  
12 in terms of sentencing.

13 In terms of retribution, one thing that became  
14 clear on Tuesday in the arguments of counsel is, as the  
15 prosecution has acknowledged, they do not -- they don't  
16 disagree with these men's objectives. This is a question of  
17 a disagreement with means, but not outcome. And so  
18 retribution for violating American foreign policy is an  
19 objective that certainly does not call for or justify a  
20 sentence of imprisonment in this case.

21 In terms of rehabilitation, Papa Faal is, like  
22 these other men, revealed to the Court to be a decent,  
23 honorable, educated man who should be allowed to return to  
24 his family and his life.

25 Mr. Richman talked about how the world would be a



1 better place if these men had succeeded and I think the  
2 record on that is clear, but I think it's also true that the  
3 world would be a better place if we had more people like  
4 these men in it.

5 In terms of rehabilitation, the law talks about  
6 presentence rehabilitation and allows the Court to consider  
7 in mitigation, allows the Court to consider in imposing a  
8 sentence below the guidelines circumstances where people are  
9 not themselves dangerous. And these men are not dangerous,  
10 not to us. We do not need to be protected from them. We do  
11 not need a term of imprisonment certainly to protect us from  
12 them.

13 And finally, on the question of deterrence, I  
14 think the record is equally unambiguous. These men will not  
15 do this again. Papa Faal spoke eloquently on Tuesday about  
16 the anguish that he feels in recognition of what his crime  
17 has done to his family members that he will not do this  
18 again.

19 But if the Court is concerned about the future  
20 possible activity of these men given the depth of their  
21 conviction and the depth of their beliefs, those concerns  
22 are vindicated much more so by conditions of supervision  
23 than they are by sentences of imprisonment.

24 And so that leaves us with what I guess they  
25 called in law school general deterrence, and the prosecution

1 in their sentencing position spoke about needing to deter  
2 others. Often they speak about needing to make an example  
3 and they use the analogy of ISIS and al-Shabaab and of the  
4 allegations against members of this community that they have  
5 acted in ways that support those organizations. That  
6 analogy is offensive. It is inappropriate. In the words of  
7 co-counsel, it's ridiculous. These are not the people who  
8 should be used to deter those others.

9 Papa Faal is a decent man who should be treated  
10 and sentenced as such. I join the prosecution in their  
11 request for a departure on his behalf and for a sentence  
12 below the guidelines and I urge the Court to impose a  
13 sentence of probation.

14 DEFENDANT FAAL: Good afternoon, Your Honor.

15 THE COURT: Good afternoon.

16 DEFENDANT FAAL: I want to first thank the Court  
17 for everything that -- the past couple of days we've been  
18 here, accommodating all of us here under these  
19 circumstances.

20 I also want to thank the Gambian community and my  
21 family for their unyielding support in this case. It's been  
22 a rough road since we got back in December. The community  
23 has been unwavering in their support, both financially and  
24 emotionally. So I say thank you to them.

25 Your Honor, in addition to that I want to say that

1 I deeply apologize to the American people and I do apologize  
2 to you.

3 I have been in this country for 20 -- probably 25  
4 years and since I arrived here all I did was to improve my  
5 life and to seek avenues where I can be able to add value to  
6 my community.

7 I joined the military in 2002 for the same reason.  
8 When watching the World Towers falling and people throwing  
9 themselves from the windows of the tower to their demise,  
10 the horrible scene, I felt no one should actually sit by and  
11 watch. I joined the military right after that to do my  
12 part, no matter how small.

13 Over the years I have gained a lot of friends from  
14 both sides. I've built a community here. I respect the law  
15 deeply. The reason why we Gambians or Africans, for that  
16 matter, leave our country to come to a nation like this, it  
17 is not because of the glares and the towers and everything  
18 else. It's because of the value that we admire so much.

19 And when we came -- I came in 1991 when things  
20 were stable, we have democratic system, we have rule of law,  
21 we have justice. But I came for education because I wanted  
22 to gain what I needed to improve human lives back home.

23 When this coup d'état happened in 1994, I remained  
24 here and I continued to do what I needed to do for this  
25 community, for this country. It's a beacon of hope. And

1       it's true, it's a beacon of hope.

2               That's why the defendants and I are standing right  
3       here talking to you, because we achieved the dream that we  
4       came for and we achieve so much. Our neighbors have become  
5       our family, our co-workers become our friends. How  
6       wonderful is that.

7               This country, the rule of law here, we always say  
8       that this will not happen in the United States. And we are  
9       seeing what's going on back in The Gambia right now with the  
10      imprisonment of people who do not -- did not do anything;  
11      they are thrown in jail for durations of numbers of years  
12      without trial. We feel that will never happen here. That  
13      will never happen here because of the value that the United  
14      States have -- I should say the world has entrusted the  
15      United States. We mean they're entrusted because the whole  
16      world assimilates the values that the United States carries.  
17      So how awful do I feel right now standing in front of you to  
18      say I am sorry for breaking the laws of this great land that  
19      I have so much worked to protect and serve.

20              Your Honor, I just wanted to speak briefly about  
21      how I feel about the conditions that led to this situation  
22      and the aftermath of this whole thing on our families, on  
23      me, and our friends.

24              We have been fighting, as I said before, for over  
25      two decades and we have seen people in The Gambia go through

1       tremendous, tremendous hardship nobody can ever think of.  
2       We have seen our freedom, the very thing that we cherish in  
3       the United States here that we go all over the world to  
4       defend, that very freedom, the liberties, the right to life,  
5       liberty, and pursuit of happiness taken and stripped away  
6       from the people of The Gambia. They go day in and day out  
7       sometimes just for existence, they work just for existence,  
8       to exist because they're competing with somebody who denied  
9       them even the basic means to make a living. Scores of them  
10      are leaving. They would rather die in the Mediterranean  
11      than stay back home under such brutal conditions.

12               We have as human beings, as me as a person and my  
13      brothers who are sitting down there, in our conscience  
14      sitting down and watching that while we are going all  
15      around, as Barrow said, serving in the military for over ten  
16      years, defending the liberties of people around the world,  
17      in Iraq and we went to Afghanistan.

18               When I went to Afghanistan -- I always tell this  
19      story. When I went to an R&R I went to Germany to my family  
20      and we spend about two weeks there before I went back to  
21      Afghanistan and there was a guy who came in who was a friend  
22      of my brother and he asked this question, Was the war worth  
23      it? And I didn't hesitate to think because I knew why I  
24      joined. I said, Yes, it was. Yes, it is because for the  
25      first time I saw an Afghani carry a table of goods and

1 selling them in the streets so they can be able to feed  
2 their families. That, to me, was something worth dying for  
3 because he was able to find means to feed his family; and I  
4 meant that.

5 But the people of The Gambia are denied the same.  
6 Yahya Jammeh will compete with them directly, even for  
7 buying meat. If you sit down and you're selling meat, he  
8 will sit -- you will have a military guy sitting next to you  
9 selling meat. If you are selling oil, you will have a  
10 military guy sitting next to you selling oil. So how can  
11 you compete with a state like that where he doesn't pay  
12 taxes, he undercuts everything? So we could not sit down  
13 and watch that.

14 So we have tried and tried and tried and tried and  
15 the conditions just kept on going. So as I said the last  
16 time, we felt that this was the option, but the outcome was  
17 just as difficult and traumatic because our actions directly  
18 hurt the very people we were trying to help, that is, our  
19 families back home and families here.

20 We lost great brothers. Njaga Jagne was a great  
21 friend of mine. I look at him -- his memories show every  
22 single day in my head, every time I close my eyes. We had  
23 great conversations all the time. Lamin Sanneh and Alhagie  
24 Nyass likewise. I will never forget the memories of those  
25 people. I will never forget that they left, you know, their

1 families back here. They were the sole provider for their  
2 families and now their children are going to grow up without  
3 fathers. That guilt will stay with me for the rest of my  
4 life.

5 And I apologize deeply again for what we did and I  
6 apologize deeply for breaking the laws of this great land.

7 And there is a reason why I stayed for 25 years,  
8 not because -- I mean, when I came here The Gambia was  
9 great. I stayed because I love this country. I served -- I  
10 joined the military voluntarily because I love this country.  
11 I look at the country. The country needs me. That's why I  
12 joined.

13 And when I got out, I didn't go back to Gambia. I  
14 stayed. I built a family here. My daughter is three years  
15 old. I love her to death. My son, two months old, he is  
16 just amazing. My wife, I just can't say anything about --  
17 but I hurt those people at the same time because I put undue  
18 burden on them, the uncertainty of everything. Day in and  
19 day out they don't know. We're struggling. Like I said  
20 before, I drive a taxi for a living. There are times when  
21 our bills are not paid. I caused that.

22 So how, then, would I see a circumstance like that  
23 and throw myself in again? You throw yourself in the fire  
24 just once because when you get out, you want to head to cold  
25 water so you can be able to tame your skin. I will never,

1 ever, as I said before, do anything like this.

2 The Gambian struggle will continue, but because --  
3 the Gambian struggle will continue because we have to make  
4 sure that people have freedom because everybody deserves so.  
5 Everybody deserves the freedom because it's a natural gift  
6 for us.

7 So with that, Your Honor, I thank you.

8 THE COURT: Thank you.

9 Mr. Kovats?

10 MR. KOVATS: No, Your Honor. Thank you.

11 THE COURT: Okay. Anything else from anybody?

12 Let's take a recess. Let's come back at 2:30. We  
13 are in recess.

14 (Recess taken at 2:14 p.m.)

15 \* \* \* \* \*

16 (2:39 p.m.)

17 **IN OPEN COURT**

18 THE COURT: We are about to turn to sentencing.  
19 Before I do, let me just read into the record, for those of  
20 you who have not been in on a sentencing before, what the  
21 Court is directed by federal law to do.

22 The Court is directed to impose a sentence which  
23 is sufficient, but not greater than necessary, to comply  
24 with the purposes of sentencing and those purposes include  
25 the need for a sentence to reflect the seriousness of the



1 offense, promote respect for the law, and provide just  
2 punishment for the offense. The sentence should afford  
3 adequate deterrence to criminal conduct, protect the public  
4 from further crimes of the defendant, and it should provide  
5 the defendant with needed education and vocational training,  
6 medical care, or other correctional treatment in the most  
7 effective manner.

8 The Court is to consider the kinds of sentences  
9 which are available, which at least in my mind has always  
10 been a reference to the advisory guideline range which has  
11 been calculated in this case, and the Court is also to avoid  
12 what are known as unwarranted sentencing disparities among  
13 defendants with similar records who have been found guilty  
14 of similar conduct.

15 So those are the factors which the Court has to  
16 take into account. It's not just a matter of I get to look  
17 at everybody and decide this would be a good sentence or a  
18 bad sentence. I've got to work those conditions into the  
19 sentence, which I will do.

20 So I think what we're going to do, then, is take  
21 up the defendants one at a time and it's not going to take  
22 very long because the speeches have all been made as far as  
23 I know. So let's start with -- who is the first?

24 THE CLERK: Cherno Njie.

25 THE COURT: Mr. Njie, anything you want to say?

1 Anything further from counsel?

2 MR. BIRRELL: No. Thank you, Your Honor.

3 THE COURT: Well, taking all of the factors into  
4 account, in my mind a sentence of one year and a day plus  
5 three years of supervised release meets all the terms of the  
6 statute.

7 I considered basically no time, but I don't think  
8 that is appropriate under all the factors here. I think a  
9 year and a day, which you're authorized for a 15 percent  
10 reduction in your sentence if you follow all the rules and  
11 regulations.

12 And a \$10,000 fine. I don't know if I put that in  
13 there. That's to be paid immediately.

14 I don't know whether there's any recommendation  
15 for placement.

16 MR. BIRRELL: He would request that the Court  
17 endorse a placement near his home in Austin, Texas.

18 THE COURT: And you'll be notified of that. But  
19 obviously you'll have voluntary surrender, so he can leave  
20 here.

21 MR. BIRRELL: Thank you.

22 THE COURT: You have the right to -- if you are  
23 dissatisfied or your lawyer is dissatisfied, you have the  
24 right to challenge or appeal the sentence which I have just  
25 imposed, not your plea of guilty. That's in place and you

1 can't do anything about that. But if you think the sentence  
2 is too high or something is wrong with it, you can take an  
3 appeal to another federal court which reviews decisions of  
4 trial courts such as this.

5 And the way you do that is you file a notice of  
6 appeal, which is basically a written document, with the  
7 clerk of this court, but it has to be filed within 14 days  
8 of the date that the judgment in this case is entered. The  
9 judgment is basically another piece of paper which gets  
10 filed with the Clerk's Office. That piece of paper should  
11 be filed, I would guess, tomorrow. So that 14-day period  
12 begins to run at that time. If you are going to appeal, you  
13 must file that notice within that 14-day period.

14 You will be entitled to be represented by counsel  
15 in connection with any appeal of the sentence. If you  
16 cannot afford a lawyer, the Court will appoint a lawyer to  
17 represent you. Do you understand that?

18 DEFENDANT NJIE: I do.

19 THE COURT: And I want to make sure you understand  
20 I'm not talking about your -- you can't change your plea.  
21 You can't change that part of it. That's in place. It's  
22 just the sentence at this stage of the game.

23 Okay. There's also on your sentence -- I guess I  
24 did mention that. I'm also adding three years of supervised  
25 release after the term, so that's in there too.

1 So why don't you go back to your seats --

2 MR. BIRRELL: Thank you, Your Honor.

3 THE COURT: -- if you don't have anything else to  
4 say.

5 Okay. Mr. Barrow is next.

6 MR. KOVATS: Your Honor, if I may --

7 THE COURT: Let me just add something to the last  
8 sentence. I am required to impose a \$200 special assessment  
9 for the Crime Victims Fund.

10 MR. BIRRELL: Yes, Your Honor. Thank you.

11 MR. KOVATS: I have a couple of other -- these are  
12 bookkeeping things just to make sure that the record is  
13 clear. Defendant Njie had made motions for a downward  
14 departure and a variance. I'm assuming the Court granted  
15 those based on the sentence?

16 THE COURT: Yes.

17 MR. KOVATS: And then there was some guideline  
18 things just to clear up. And I know that your sentence  
19 wasn't necessarily tied to the guidelines, but there was  
20 some dispute as to whether or not a leader/organizer  
21 adjustment would apply and whether the Court --

22 THE COURT: I think the leader -- that does apply.

23 MR. KOVATS: Okay. And then the Court did not  
24 apply the --

25 THE COURT: Four points?

1 MR. KOVATS: -- for the firearms?

2 THE COURT: Yeah, right.

3 MR. KOVATS: And that was not applied, right?

4 THE COURT: Right.

5 MR. KOVATS: Very good. Thank you, Your Honor.

6 THE COURT: Thank you.

7 Mr. Friedberg or whoever is going to talk.

8 MR. RICHMAN: We've said everything we have to  
9 say, Your Honor.

10 THE COURT: Okay. Mr. Barrow, the Court's view of  
11 your sentence is as follows: You are sentenced to six  
12 months in prison and three years of supervised release and  
13 there will be no fine. I think that's about it. \$200  
14 special assessment for the Crime Victims Fund.

15 MR. RICHMAN: Your Honor, given the length of the  
16 sentence, would the Court consider making a recommendation  
17 to the Bureau of Prisons that his sentence be served in a  
18 halfway house rather than in an actual prison facility,  
19 which he could do in his community in Nashville? Just given  
20 the way the BOP works, just getting him incorporated into  
21 prison life is going to take six months and he'll be done  
22 with his sentence, so we would ask for a recommendation that  
23 he serve his term in a halfway house with work release  
24 privileges.

25 THE COURT: No, I will not do that. I think it

1 ought to be a prison term.

2 MR. RICHMAN: Thank you, Your Honor.

3 THE COURT: Anything else? Mr. Friedberg, you're  
4 up here quiet.

5 MR. FRIEDBERG: I don't intend to change that,  
6 Your Honor.

7 THE COURT: It's a good quality. Thank you.

8 Who is --

9 MR. KOVATS: Your Honor, I'm going to play the  
10 same role of sort of the procedural gadfly and just cover a  
11 couple of other things. I'm just presuming the defense  
12 motions for downward departure and variance were granted?

13 THE COURT: Yes.

14 MR. KOVATS: And I know that you did notify  
15 Defendant Njie of his right to appeal. Similarly, Defendant  
16 Barrow has a right to appeal the sentence within --

17 THE COURT: I'll say the same thing here. You  
18 have a right to appeal the sentence. If you want to appeal  
19 it, you must file a notice of appeal with the clerk of this  
20 court within 14 days of the date that the judgment is  
21 entered. If you let that 14 days go by, you will lose your  
22 right to appeal the sentence. That probably covers it. And  
23 I'm only talking about the sentence. You can't appeal your  
24 plea of guilty. You can't change your mind about that.

25 MR. KOVATS: Thank you, Your Honor.

1 THE COURT: Who is next? Mr. Larsen, anything you  
2 want to say before I pronounce sentence?

3 MR. LARSEN: No. Thank you, Your Honor.

4 THE COURT: Mr. Manneh, you are sentenced as  
5 follows: You are committed to the custody of the Bureau of  
6 Prisons for a period of six months with three years of  
7 supervised release to follow and I'll recommend -- any  
8 placement recommendation?

9 MR. LARSEN: In the Atlanta, Georgia, area if we  
10 may, Your Honor.

11 THE COURT: I will recommend to the Bureau of  
12 Prisons that your place of incarceration be a federal  
13 facility within the vicinity of Atlanta, Georgia.

14 I want to make clear, if I didn't to the other  
15 two, but certainly to you now, that I don't decide where you  
16 will serve your term. That's not up to me. All I can do is  
17 make a recommendation. My experience with the Bureau of  
18 Prisons is that sometimes they follow it and sometimes they  
19 don't. But you'll be notified probably within six weeks or  
20 so where that would be.

21 DEFENDANT MANNEH: I understand, Your Honor.

22 THE COURT: And you have a right also to appeal  
23 the sentence if you are dissatisfied with it. If you do  
24 that, you must file a notice of appeal within 14 days of the  
25 date the judgment is entered. And you're entitled to be

1 representing by a lawyer in connection with any appeal and  
2 the Court will appoint a lawyer to represent you if you  
3 decide to appeal.

4 A \$200 special assessment for the Crime Victims  
5 Fund is also imposed.

6 DEFENDANT MANNEH: I understand. Thank you.

7 MR. LARSEN: Thank you, Your Honor.

8 THE COURT: Anything else?

9 MR. LARSEN: Nothing from the defense, Your Honor.

10 THE COURT: Thank you.

11 MR. KOVATS: And, Your Honor, if I could just make  
12 the record clear as well here that the defendant's motion  
13 for a downward departure or variance was granted for  
14 Defendant Manneh; is that right, Your Honor?

15 THE COURT: Yes.

16 MR. KOVATS: And then there was an issue about  
17 whether the leader/organizer adjustment applied and just  
18 asking if the Court --

19 THE COURT: For --

20 MR. KOVATS: For Mr. Manneh. I think that was an  
21 issue that was -- we discussed it here before you and I  
22 think it was an open question. I know the Court was not  
23 inclined to apply the application for a serial number  
24 obliteration.

25 THE COURT: Right. The serial number is out on



1 all of those.

2 MR. KOVATS: Okay. The leader/organizer, I think,  
3 is the only matter that I think is still open, Your Honor.

4 THE COURT: Did I do a leader/organizer on Njie?

5 MR. KOVATS: You did for Defendant Njie, yes, Your  
6 Honor.

7 THE COURT: That's what I thought. Okay. Thank  
8 you.

9 MR. KOVATS: And I think the record was more clear  
10 as to that defendant in the government's view.

11 THE COURT: Okay.

12 MR. KOVATS: And so I think it remains to be known  
13 whether or not we did it for Defendant Manneh, and I know  
14 Probation recommended against it if that should help you  
15 out.

16 THE COURT: We'll stick with that recommendation,  
17 then.

18 MR. KOVATS: Thank you, Your Honor.

19 THE COURT: Thank you.

20 Mr. Mohring. Okay. We are with Mr. Papa Faal?

21 MR. MOHRING: Yes, Your Honor.

22 THE COURT: Your sentence is as follows: You are  
23 sentenced to time served and three years of supervised  
24 release. So I don't think there's anything else I can cover  
25 other than your right to appeal. I don't think you're going

1 to appeal that sentence, but you do have the right to do so  
2 if you wish to do so within 14 days of the date the judgment  
3 is entered.

4 I think that is it. I also want to say for the  
5 benefit of the other defendant -- well, the four defendants,  
6 the defendants not only have the right to appeal, but the  
7 United States also has the right to appeal the sentence if  
8 they are dissatisfied with it or if it is dissatisfied.

9 \$200 special assessment for the Crime Victims  
10 Fund.

11 Okay. Anything else? Mr. Mohring, anything  
12 further?

13 MR. MOHRING: (Shaking head.)

14 THE COURT: I think I am getting a note here.

15 (The Court and probation officer confer)

16 THE COURT: You can sit down if you want. I've  
17 just got to read the terms of the supervised release. The  
18 terms of supervised release have the following mandatory  
19 conditions and they include the following:

20 First, the defendant must report to the  
21 U.S. Probation Office in the district to which you are  
22 released within 72 hours of your release from the custody of  
23 the Bureau.

24 The defendant cannot commit any crimes, federal,  
25 state, or local, during the period of supervised release.

1 I'm suspending mandatory drug testing based upon  
2 my determination that the defendant posed a low risk of  
3 future substance abuse.

4 No defendant may possess a firearm, ammunition,  
5 destructive device, or any other dangerous weapon during the  
6 period of supervised release.

7 And the defendant shall cooperate in the  
8 collection of DNA as directed by the probation officer.

9 The defendant shall also submit his person,  
10 residence, office, vehicle, and area under his control to a  
11 search conducted by the U.S. Probation Office in a  
12 reasonable time and in a reasonable manner based upon  
13 reasonable suspicion of contraband or evidence of a  
14 supervision violation. The defendant shall warn any other  
15 residents or third parties that the premises and areas under  
16 his control may be subject to searches pursuant to this  
17 condition.

18 The defendant shall not possess or use a computer  
19 or have access to any online service without the prior  
20 approval of the Probation Office. The defendant's  
21 cooperation shall include, but not be limited to, allowing  
22 installation of a computer and Internet monitoring program  
23 and/or identifying computer systems, Internet-capable  
24 devices, and similar memory and electronic devices to which  
25 the defendant has access. The monitoring may include random

1 examinations of the computer system, along with Internet,  
2 electronic, and media storage devices under the defendant's  
3 control. The computer system or devices may be removed for  
4 a more thorough examination if necessary.

5 If not employed at a regular lawful occupation as  
6 deemed appropriate by the probation officer, the defendant  
7 may be required to perform up to 20 hours of community  
8 service per week until he or she is employed. The defendant  
9 may also participate in training, counseling, daily job  
10 search, or other employment-related activities as directed  
11 by the probation officer.

12 The defendant shall provide the probation officer  
13 with access to any requested financial information,  
14 including credit reports, credit card bills, bank  
15 statements, and telephone bills.

16 The defendant shall not possess, view, access, or  
17 otherwise use material that reflects extremist or  
18 terroristic views or is deemed to be inappropriate by the  
19 U.S. Probation Office.

20 The defendant shall participate in a mental health  
21 counseling program as approved by the probation officer.

22 The defendant must submit to periodic polygraph  
23 testing at the direction of the probation officer as a means  
24 to ensure that you are in compliance with the requirements  
25 of your supervision.

1           Although I have already done this, I will do it  
2           again. The Court imposes a \$200 special assessment for the  
3           Crime Victims Fund, which amount is required by statute to  
4           be paid immediately.

5           I think that's it. Anything else we need to  
6           cover?

7           PROBATION OFFICER: (Shaking head.)

8           THE COURT: I want to say to counsel and to the  
9           defendants, I appreciate the manner in which this was  
10          handled here today at sentencing. I think it was very  
11          professional and I appreciate the attitude of the  
12          defendants. I don't know whether they are pleased or  
13          displeased with the sentence which I have imposed, but I  
14          guess I can't control that. I did what I thought was the  
15          best I could do.

16          If I take your views here as expressed before  
17          sentencing at face value, I don't think -- no one is going  
18          to have to worry about you coming back into federal court.  
19          And I hope you mean it. I think you made a big mistake in  
20          the conduct which got you here today.

21          Even though it was well-intentioned, you just  
22          cannot take basically the law into your own hands and decide  
23          how to reform another government or do anything like that.  
24          So think a long time before you try anything like that again  
25          or do anything. I'm not -- by saying this I'm not thinking

1       you are going to do anything like that. I think you've  
2       learned your lesson. Hopefully you will be back in  
3       responsible positions in your communities and give faith to  
4       those letters which all came in on our behalf.

5               And those letters -- as I said earlier, they were  
6       great letters. I found them very informative. For those of  
7       you that are out there and wrote them, I thank you again.  
8       And keep in mind these defendants may need some support when  
9       they get back in your own community, so don't let them down.

10              On that note -- voluntary surrender, yes.

11             MR. RICHMAN: Your Honor, I ask for a  
12       recommendation on behalf of Mr. Barrow that he be designated  
13       to a facility near his home in Nashville, Tennessee.

14             THE COURT: That will be granted.

15             MR. RICHMAN: Thank you, Your Honor.

16             THE COURT: Anything else from any of the other  
17       defendants, then?

18             MR. MOHRING: Your Honor, from the sublime to the  
19       mundane, I would just like to clarify the computer condition  
20       that was among the list of supervised release conditions.  
21       The Court ordered that all of the defendants not be allowed  
22       access to a computer without prior approval of Probation.

23             I would just ask that the Court allow Mr. Faal to  
24       have a computer with all the monitoring, bells and whistles  
25       attached so that he can use it for his school. He's

1 studying for a Ph.D. and he needs a computer and Internet  
2 access to be able to do that.

3 THE COURT: How do we handle that?

4 PROBATION OFFICER: That's up to you. Your Honor,  
5 we're not restricting the defendant from a computer. We're  
6 just going to approve the use of the computer, if he needs a  
7 computer, to make sure that it's compliant with our ability  
8 to monitor --

9 THE COURT: If it's not compliant, you know where  
10 to go.

11 MR. MOHRING: Fair enough. Thank you, Judge.

12 THE COURT: Anything else?

13 Okay. Thank you all for coming in and good luck.

14 THE CLERK: The voluntary surrender date?

15 THE COURT: Oh, voluntary surrender date. How  
16 long do you want? A month?

17 MR. BIRRELL: A month sounds good, Your Honor.

18 MR. RICHMAN: I think typically it's -- well, I'm  
19 not sure that typically there is a date set. I think that  
20 once -- I think working through Pretrial Services, once the  
21 Bureau of Prisons sets a designation, they're given a  
22 surrender date to that facility.

23 THE COURT: Does the Bureau send that out, you  
24 mean?

25 MR. RICHMAN: The Bureau notifies Pretrial

1 Services. Pretrial Services notifies the defendant. But we  
2 don't control, nobody can control what and when the Bureau  
3 of Prisons does and it's often not done within a month.

4 MR. KOVATS: I would defer to Pretrial Services,  
5 but my understanding is the same as Mr. Richman's.

6 THE COURT: Let's do that, then.

7 MR. KOVATS: That voluntary surrender will happen  
8 when they're told to surrender?

9 THE COURT: Right.

10 PROBATION OFFICER: Your Honor, you can set that  
11 date for voluntary surrender. If there is no date set, then  
12 the Bureau will designate that date for the defendants to  
13 report to the facility. So you still can set a voluntary  
14 surrender date and designation will happen quite often --  
15 they could be designated within a week, two weeks.  
16 Designations happen very quickly.

17 THE COURT: What's a date that would fit  
18 everybody's schedules? 30 days from now?

19 MR. RICHMAN: I think 30 days is appropriate.

20 THE COURT: If anybody needs more time, they can  
21 come back. Voluntary surrender will be 30 days.

22 Anything else?

23 PROBATION OFFICER: No.

24 THE COURT: Anything else from anybody?

25 MR. KOVATS: No, Your Honor. Thank you.



1 THE COURT: We are in recess, then.

2 (Court adjourned at 2:58 p.m.)

3 \* \* \*

4

5

6

7 I, Lori A. Simpson, certify that the foregoing is a  
8 correct transcript from the record of proceedings in the  
9 above-entitled matter.

10

11 Certified by: s/ Lori A. Simpson

12 Lori A. Simpson, RMR-CRR

13

14

15

16

17

18

19

20

21

22

23

24

25